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Security Council

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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Note verbale dated 23 March 2004 from the Permanent Mission of Estonia to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Estonia to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities and has the honour to forward the Estonian report pursuant to paragraph 6 of resolution 1455 (2003) (see annex).

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Annex to the note verbale dated 23 March 2004 from the Permanent Mission of Estonia to the United Nations addressed to the Chairman of the Committee*

ESTONIA

Report called under paragraph 6 of the Resolution 1455 (2003) to the UN Security Council Committee established to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities.

I. Introduction

1. Please provide a description of activities, if any, by Usama Bin Laden, Al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.

Usama Bin Laden, Al-Qaida, Taliban and their associates, as well as other internationally operating terrorist organisations have not conducted any activities in Estonia, so that the direct threat they pose to our country remains relatively low. We have not detected the presence of their associates on Estonian territory. Neither have we detected any transit of their associates nor logistical or financial support to the Al-Qaida.

II. Consolidated List

(to be circulated to member states every three months) www.un.org/Docs/sc/committees/1267/1267ListEng.htm

2. How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?

The Money Laundering Prevention Act (MLPA) entered into force 1.07.1999 and was amended by terrorism financing and other terms on January 1, 2004. In the implementation of the terms and conditions of the Money Laundering and Terrorist Financing Prevention Act (MLTFPA) the List is used as one of the indicators for recognizing or suspecting terrorist financing. On 2 January 2003 there was enforced International Sanctions' Act stating that international sanctions decided by UN Security Council, EU Council, other international organization or Government of the Republic of Estonia on its own initiative will be introduced by the Government after having discussed with relevant authorities, i.e. in case financial restrictions will be imposed, also financial Supervision Authority and Central Bank will be consulted with. Within its ordinary tasks FSA will also inform subjects of the financial supervision of the imposed sanctions and supervise their implementation in the subjects of financial supervision. The Security Police have been actively collecting information concerning the persons listed in terrorist lists. The Police Board, Financial Intelligence Unit (FIU), Security Police Board, Border Guard, Citizenship and Migration Board and Tax and Customs Board co-operate closely so as to detect any movement or transactions by the listed terrorists.

3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.

* Additional documentation is on file with the Secretariat and is available for consultation.

There have been multiple problems with the fact that in the lists there are given two to three spelling variations for several names and in the other available materials (internet, press) even more variations on the same persons and entities have sometimes been met. Dates of birth and passport details are often not given, which means that it is difficult to enter these individuals into the list of those who have to be prevented from crossing the border until a decision is made by the appropriate governmental agency on the basis of additional information. The same situation exists regarding financial institutions -- the lack of detailed information often makes it impossible or very difficult (until the situation is clarified) to prevent individuals in various internationally accepted lists from possibly operating in Estonia.

4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.

No.

5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Usama Bin Laden or members of the Taliban or Al-Qaida that have not been included in the List, unless to do so would compromise investigations or enforcement actions.

The Estonian authorities do not have any information concerning such individuals or entities.

6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.

No.

7. Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.

No.

8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.

Until the present time, no Al-Qaeda activities of any kind have been discovered in Estonia. Nevertheless, the Security Police is actively collecting and analysing information, which might in any way be connected with possible recruitment by Al-Qaida and/or support of Al-Qaida in Estonia. If and when concrete evidence is discovered concerning suspected recruitment for or support of Al-Qaida, a thorough criminal investigation would be launched. The Security Police also collects and analyses information, which might concern the participation of individuals in Al-Qaida training camps or other activities including support. A criminal investigation would be launched, if evidence were found to indicate that efforts are being made to establish terrorist training camps, or other supportive facilities for terrorists or terrorist financing in Estonia.

Additional information about appropriate national legislation can be found in the previous Estonian reports.

III. Financial and Economic Assets Freeze

Under the sanctions regime (paragraph 4(b) of resolution 1267 (1999) and paragraphs 1 and 2(a) of resolution 1390 (2002)), States are to freeze without delay the funds and other financial assets or economic resources of the listed individuals and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, assets or resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory.

NOTE: For the purpose of implementation of the financial prohibitions in this sanctions regime, "economic resources" is defined to mean assets of every kind, whether tangible or intangible, movable or immovable.

9. Please describe briefly:

- the domestic legal basis to implement the asset freeze required by the resolutions above;

MLTFPA § 15[1]. Suspension of transaction and restriction of use of account

(1) In the event of justified suspicion of money laundering or terrorist financing, the Financial Intelligence Unit may issue a precept to suspend a transaction or to impose restrictions on the use of an account for up to two working days as of receiving notification regarding a suspicion of money laundering or terrorist financing. In such a case, the transaction may be carried out or the restriction on using the account may be removed earlier only with the written permission of the Financial Intelligence Unit. During the time that restrictions on using an account are in force, the credit or financial institution shall not execute any orders issued by the account holder for the use or disposal of the assets in the account.

§ 15[2]. Seizure and transfer of property to state ownership

(1) The Financial Intelligence Unit may, on the basis of a precept, seize property to ensure its preservation if

1) During verification of the source of the property in the event that there is a suspicion of money laundering, the owner or possessor of the property fails to submit evidence certifying the legality of the source of the property to the Financial Intelligence Unit within two working days as of the suspension of the transaction or as of the imposition of restrictions on the use of the account;

2) There are characteristics indicating terrorist financing.

(2) The Financial Intelligence Unit may seize property for a period of up to ten working days. Property may be seized for longer periods only if criminal proceedings have been commenced in the matter. In this case, property shall be seized pursuant to the procedure provided by the Acts regulating criminal procedure.

- any impediments under your domestic law in this context and steps taken to address them.

The amendments to MLPA (MLTFPA) entered into force 1 January 2004 and so far there has not been a need to apply the provisions pertaining financing of terrorism (see also below). It is our belief that the legal framework to implement this particular part of the sanctions regime is sufficient in case the need arises.

10. Please describe any structures or mechanisms in place within your Government to identify and investigate Usama bin Laden, Al-Qaida or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

The Security Police Board is responsible for gathering appropriate intelligence information and has the authority to investigate cases concerning the financing of terrorism. Determining the financing of terrorism is based upon the Money Laundering and Terrorism Financing Suppression Act, and, starting this year, is the responsibility of FIU. See § 15 and § 16, 16[1] of the annexed MLTFPA on notification and co-operation obligations.

The Ministry of Internal Affairs is directly responsible for the fight against terrorism and terrorist financing on the national level, and therefore coordinates all such activities carried out and measures taken in Estonia. At the same time, the Ministry of Foreign Affairs coordinates Estonia's international anti-terrorist co-operation and some exchange of information with the appropriate governmental agencies of other countries and international organisations dealing with the fight against terrorism. Financial Supervision Authority is responsible for supervising the implementation of international sanctions by subjects of the state financial supervision. Financial Intelligence Unit is directly responsible for prevention of money laundering and terrorist financing and operates under the head of Estonian Central Criminal Police that is in the structure of the Police Board and within the area of the Ministry of Internal Affairs.

The Ministry of Internal Affairs has established an Advisory Commission, which is inter alia responsible for making suggestions for the better implementation of the Money Laundering and Terrorist Financing Prevention Act. The Commission consists of representatives from Ministry of Justice, Ministry of Internal Affairs, Ministry of Foreign Affairs, FIU, Financial Supervision Authority, Estonian Banking Association, Central Criminal Police, Defence Police, Prosecutors' Office. Therefore, the Commission is a very appropriate venue for experts to exchange views and share experiences. The work of the Commission will hopefully result in concrete recommendations that will facilitate the prevention and suppression of the financing of terrorism in Estonia.

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Usama bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.

The normal procedure for financial and credit institutions is to categorize clients, according to specific criteria, into various risk groups, on the basis of which they are then monitored. As need arises, the origins of a client's funds are checked more thoroughly. In addition, transactions are monitored on the basis of the country of origin, and the client base is monitored for any possible links with terrorists. All clients are properly and thoroughly identified.

The internal security measures requirements for credit and financial institutions are specified in MLTFPA article 13:

§ 13. Internal security measures

(1) The head of a credit or financial institution shall appoint a person to act as the contact person for the Financial Intelligence Unit (hereinafter contact person) and shall grant him or her the authority and provide him or her with the means needed to perform the duties of a contact person as specified in subsection 14 (1) of this Act.

(2) A person specified in subsection (5) 1) of this Act may appoint a contact person for the direct performance of duties related to the prevention of money laundering. If a person specified in subsection (5) 1) of this Act has not appointed a contact person, the duties of the contact person shall be performed by that person or by the head of the undertaking.

(3) The head of a credit or financial institution is required to establish a code of conduct for employees to prevent money laundering and terrorist financing, and to establish internal audit rules to monitor compliance with the code of conduct.

(4) Credit and financial institutions and persons specified in subsection 5 (1) of this Act shall guarantee regular training in the performance of the duties arising from this Act for employees who carry out cash and non-cash transactions.

(5) The provision of regular training in the performance of duties arising from this Act for officials or employees specified in subsection 15 (3) of this Act shall be guaranteed by the head of the corresponding agency or foundation.

(6) Requirements for the code of conduct to be established by credit and financial institutions, for the internal audit rules to monitor compliance with the code of conduct and for the application of such documents shall be established by the Minister of Finance.

As to notification and co-operation obligations of the financial institutions, please see above point 10.

Financial Supervision Authority has issued Guidelines for the implementation of MLTFPA. These are of advisory nature, explaining the legal obligations of the financial institutions under its supervision. The following excerpts explain how financial institutions implement "know your customer" principle, as part of the due diligence requirements.

FSA Guidelines for implementation of MLTFPA:

Part 6
Implementation of 'know your customer' principle

6.1 A financial institution shall implement the 'know your customer' principle in all transactions with the customer in order to adequately assess the compliance of the customer's transactions with his principal activity and/or payment habits.

6.2 In order to decide whether a transaction is of suspicious or unusual nature, a financial institution shall pay particular attention to its knowledge of the customer and its economic activity. Circumstances, which are suspicious or unusual in respect of one customer, may be totally normal (business) activity of another customer.

6.3 On creating customer relationship, likewise on conducting transactions, attention shall be paid to the fact whether this is done in the branch of the place of residence or location of the customer. If the customer's behavior is unusual, it should definitely be required why the customer did not turn to the branch of his residence or location.

6.4 A financial institution shall assess the essence and objective of the customer's transactions and actions based on its general work experience, in order to establish the potential connection of the transaction or funds used for money laundering or any other offence. Besides, respective instruction and training of employees shall be ensured.

6.5 The transformation, transfer of funds or performance of legal actions, which are the result of tax offences, shall be treated similarly to all criminal offences against property, for preventing money laundering. Thus, it shall be checked whether tax returns and any other potential movements in customers' accounts related thereto comply with the profile and extent of their activity.

6.6 § 11 (4) of MLPA allows a financial institution to refuse to conduct a transaction if the person, regardless of respective request, fails to submit the documents certifying the legal origin of the funds that are the object of transaction.

12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities." Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2000) and 1390 (2002). Please include, to the extent possible, in each listing the following information:

- Identification(s) of the person or entities whose assets have been frozen;

- a description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);

- the value of assets frozen.

No such assets have been discovered and frozen.

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Usama Bin Laden or members of the Al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.

Since no assets have been frozen, then none have been unfrozen as well.

14. Pursuant to resolutions 1455 (2003), 1390 (2002), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to Listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:

- The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as

members or associates of Al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used.

- Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated.

MLTFPA § 15 - Notification obligation:

"If, upon carrying out a transaction, a credit or financial institution identifies a situation which might be an indication of terrorist financing, the institution or person shall promptly notify the Financial Intelligence Unit thereof. Information shall be forwarded orally, in writing or by electronic means of communication. If information is forwarded orally, the information shall be repeated in writing not later than by the end of the following working day."

In co-operation with the Financial Supervision Authority (FSA) and commercial banks, the Bank of Estonia has elaborated several procedures and recommendations for prevention of money laundering and combating terrorism financing – including criteria for detecting unusual and suspicious transactions. In June 2002, the Management Board of the FSA approved the guideline "Additional measures to prevent money laundering in credit and financial institutions" (also referred above). The guideline conforms to the FATF "Guidance for Financial Institutions in Detecting Terrorist Financing Activities".

The *Estonian Banking Association's MLP Committee*, consisting of contact persons from all credit institutions, representatives from the FIU, FSA, and the Ministry of Internal Affairs, has worked out the following non-binding guidelines:

Additional Recommended Measures of the EBA for Preventing Money Laundering in Credit Institutions: These additional measures include more detailed instructions for banks concerning the requirement of additional documentation and information when opening a new account or performing transactions. The Board of the Estonian Banking Association approved the document dealing with additional measures to prevent money laundering on 13 February 2001. Implementation began on 1 September 2001.

The EBA's Additional Recommended Measures for Credit institutions, concerning Relations with Foreign Legal Persons, to Improve the Prevention of Money Laundering: These additional measures include more detailed instructions for banks concerning the documents (form and language) and data required upon the conclusion of settlement agreements, the special clauses for acceptance and treatment of the documents, and the additional restrictions placed upon relations with foreign legal persons, with special attention focused upon those based in off-shore regions. Implementation began on 1 July 2002.

Indicators of Suspicious Transactions: This document includes a classification of indicators to watch for in the course of opening an account, performing transactions, and analysing transactions. Implementation for bilateral use began on 1 July 2002.

Since the relevant provisions for the effective fight against financing of terrorism was included in the anti-money laundering legislation, one has to read the above-mentioned measured applicable *mutatis mutandis* to the financing of terrorism. This has been done because of the limited institutional and personal resources as well as the already existing effective mechanisms in respect of money laundering prevention.

- Requirements, if any, placed upon financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated.

This has been provided in § 5 of the MLTFPA:

Application of Act to other persons:

(1) In the cases provided by this Act, the requirements for the prevention of money laundering, which are equivalent to the requirements set for credit and financial institutions for such purposes, shall also apply to the following persons:

1) providers of currency exchange services;

2) providers of cash transfer services;

3) organisers of gambling or lotteries;

4) persons who carry out or act as intermediaries in real estate transactions;

5) persons who act as intermediaries in transactions involving precious metals, precious stones, works of artistic value, or other valuable goods, and who receive a fee exceeding EEK 100 000 for such services;

6) auditors and persons who provide consulting services in the field of accounting and taxation;

7) notaries, advocates and other persons who provide consulting services in the cases provided for in subsection (2) of this section;

8) other persons who, in the course of their business activities, carry out or act as intermediaries for transactions of at least the value specified in subsection 6 (5) of this Act.

(2) This Act applies to notaries, advocates, and other persons who provide consulting services if they act directly on behalf of or for the benefit of their client in any monetary or real estate transaction, or assist the client in planning or performing transactions, which involve:

1) the transfer of real estate, shares or enterprises for a charge;

2) management of the client's money, securities or other assets;

3) the opening or administration of bank accounts, deposit accounts or securities accounts;

4) the acquisition of funds necessary for the foundation, operation or management of companies;

5) the foundation, operation or management of other companies or similar entities.

(3) For the purposes of this Act, a currency exchange service is the exchange of legal tender cash of one country for legal tender cash of another country.

(4) For the purposes of this Act, a cash transfer service is the acceptance of cash by an undertaking which is not a credit institution in order to forward the cash to a third party, or the payment of cash to a third party by such an undertaking on the basis of a mandate forwarded or made available thereto, or the arrangement of such a payment.

Verification of the information and decision on subsequent actions (preservation of the assets or submitting materials to competent body for criminal proceedings) is conducted by the Financial Intelligence Unit according to § 16[1] of the MLTFPA (annexed).

• Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items.

All entities are required to identify all persons together with whom the person, upon carrying out a transaction or transactions which are clearly interconnected, receives, acts as an intermediary for or pays out more than EEK 100 000 in cash, more than EEK 200 000 in the event of a non-cash settlement, or more than EEK 200 000 in total as cash and non-cash payments in the event of both a cash and non-cash settlement for a transaction or for transactions which are clearly interconnected.

• Restrictions or regulations, if any, applicable to alternate remittance systems such as, or similar to, "hawala", as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.

Providers of cash transfer services (money remittance services) are required, when providing cash transfer service, to identify all persons who send or receive funds through them.

IV. Travel Ban

Under the sanctions regime, all States shall take measures to prevent the entry into or transit through their territories of Listed individuals (paragraph 1 of resolution 1455 (2003), paragraph 2b of resolution 1390 (2002)).

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

The following will describe the legal basis for travel ban. A prohibition or ban on entry in Estonia is imposed according to the Obligation to Leave and Prohibition on Entry Act. According to this Act, the prohibition on entry is temporal or indefinite. A temporal prohibition on entry may extend for up to 10 years. The person to whom the prohibition of entry applies, is not granted permission to enter Estonia at the border and is prohibited from residing in Estonia. According to the § 29 of the Obligation to Leave and Prohibition on Entry Act a prohibition on entry may be imposed in the following cases:

§ 29. Bases for application of prohibition on entry

(1) A prohibition on entry may be applied with regard to an alien if:

1) there is good reason to believe that his or her stay in Estonia may endanger the security of the Republic of Estonia, or public order, public safety, moral standards or the health of other persons;

2) there is information or good reason to believe that he or she belongs to a criminal organisation, that he or she is connected with the illegal conveyance of narcotics, psychotropic substances or persons across the border, that he or she is a member of a terrorist organisation or has committed an act of terrorism, or that he or she is involved in money laundering;

3) he or she is or has been employed by an intelligence or security service of a foreign state, or there is good reason to believe that he or she is or has been employed by an intelligence or security service of a foreign state;

4) he or she has received or there is good reason to believe that he or she has received special training in landing operations or in diversion or sabotage activities, or other special training, and if the knowledge and skills acquired in the process of such training can be directly applied in the formation or training of illegal armed units;

5) he or she incites or there is good reason to believe that he or she incites racial, religious or political hatred in Estonia or a foreign state;

6) he or she has been punished or there is good reason to believe that he or she has been punished for a serious crime against humanity or for a war crime, regardless of whether the criminal record has expired or been expunged, and regardless of the expungement of data concerning punishment from the punishment register;

7) he or she has been punished for an intentionally committed criminal offence or for another offence in Estonia or a foreign state, and if the criminal record has neither expired nor been expunged or if data concerning the punishment have not been expunged from the punishment register;

8) the alien has violated legislation regulating the stay of aliens in Estonia or the crossing of the state border by aliens.

(2) A permanent prohibition on entry may be applied in the cases provided for in clauses (1) 1)-6) of this section.

(3) If it is impossible for the family of an alien to live together outside Estonia or if the resettlement of the family in a foreign state would involve difficulties on a disproportionate scale in comparison with the need to establish a prohibition on entry, a prohibition on entry with regard to the alien may be applied only in the cases provided for in clauses (1) 1)-6) of this section.

(4) The following persons living legally in Estonia together with an alien in the same family shall be deemed to be the family members of the alien:

1) spouse;

2) minor child;

3) parent, if the alien is a minor.

(5) If the bases for application of a prohibition on entry provided for in subsection (1) of this section become evident during the proceedings for the grant or extension of a basis for stay, the grant or extension of the basis for stay shall be refused and a prohibition on entry shall be applied with regard to the alien.

A register of the ban on entry is kept about foreigners upon whom the ban on entry is imposed.

16. Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.

The persons in the list in question are also included in the state register of ban on entry. The updating of the register of the ban on entry is continuous. On average, the international list is checked once a month, on the basis of which, the state register is updated.

17. How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching List data using electronic means at all your entry points?

With addition of each new name to the register, the corresponding information is electronically transferred to the border guards. At the same time, the border guards also have access to the register of the ban on entry.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

No.

19. Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your consular offices. Have your visa issuing authorities identified any visa applicant whose name appears on the List?

Consular institutions receive online up-to-date information about the persons listed in the register via the visa registrar.

No such individuals have been identified.

V. Arms Embargo

Under the sanctions regime, all states are requested to prevent the direct or indirect supply, sale and transfer, to Usama bin Laden, members of Al-Qaida organization and the Taliban, and other individuals and entities associated with them, from their territories or by their nationals outside their territories of arms and related materiel of all types, including the provision of spare parts and technical advice, assistance, or training related to military activities (paragraph 2(c) of resolution 1390 (2002) and paragraph 1 of resolution 1455 (2003)).

20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

Estonia has enforced appropriate export controls since 1994. The new Strategic Goods Act (in force since 5 February 2004) and the International Sanctions Act (both attached) are the basis for effective enforcement.

21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

These are regulated in the two Acts cited below.

I. International Sanctions Act provides criminal responsibility for the following violations by the Amendment to Penal Code Art- 93-1:

Violation of the measures necessary for the enforcement of international sanction:

(1) Violation of an internal measure necessary for the enforcement of an international sanction is punishable by pecuniary punishment or up to 5 years' imprisonment.

(2) The same act, if committed by a legal person, is punishable by pecuniary punishment.

(3) The court shall confiscate the object, which was the direct object of the commission of an offence provided for in this section.

II. Estonian Penal Code § 392 referring to the Strategic Goods Act provides:

Illicit traffic in prohibited goods or goods requiring a special permit.

(1) Illicit traffic in prohibited goods or the carriage of radioactive substances, explosive substances [...] strategic goods, firearms or ammunition without the corresponding special permit is punishable by pecuniary punishment or up to 5 years' imprisonment.

(2) The same act, if committed:

1) by an official taking advantage of his or her official position, or

2) by a group, is punishable by 2 to 10 years' imprisonment.

(3) An act provided for in subsection (1) of this section, if committed by a legal person, is punishable by pecuniary punishment.

(4) The court shall confiscate the substance or object, which was the direct object of the commission of an offence provided for in this section.

22. Please describe how your arms/arms broker licensing system, if any, can prevent Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.

Strategic Goods Act defines "brokering" as follows:

1) the provision or making available of information, practical assistance, or funds, with the aim of arranging or negotiating the arrangement of transactions relating to military goods that involve the transfer of goods from a foreign country to any other foreign country;

2) the acquisition of military goods located in a foreign country with the aim of transferring the goods to another foreign country.

(3) The marketing of goods of Estonian origin located in Estonia shall not be deemed to be brokering.

Brokering services are controlled, when they are provided from Estonia to a foreign country or to a foreign recipient of services, regardless of the residence of the service provider, who is a natural person, or the location of the service provider, who is a legal person, or through the business activity of an Estonian service provider in a foreign country.

The term "broker" has been defined as follows: a person engaged in brokering, as specified above, who receives financial or other gains therefrom.

Prerequisites for brokering

(1) A broker may engage in brokering after having been entered in the state register of brokers of military goods (hereinafter register).

(2) A person entered in the register has the right to engage only in the brokering of military goods indicated in the register entry. For each brokering transaction, an individual licence must be applied for.

(3) A person need not be entered in the register if the person is already entered in a register intended for monitoring brokers in a country participating in all export control regimes. Such a person must apply for an individual licence for each brokering transaction.

The Commission may refuse to enter a person in the register if:

1) false information or documents with elements of falsification are knowingly submitted upon application for entry into the register;

2) the applicant has violated legislation relating to the import, export, and transit of strategic goods, or a precept issued on the basis thereof, in the course of five years before the application for entry into the register;

3) the applicant has violated an international sanction in the course of five years before the application for entry into the register;

4) criminal proceedings have commenced concerning the applicant;

5) other good reasons exist.

The following are prohibited:

1) the export and transit of military goods to countries subject to relevant sanctions binding for Estonia, which have been established by an institution specified in subsection 1 (1) of the International Sanctions Act (hereinafter international sanction), regardless of special authorisation;

2) the diversion, from their intended destination, of goods subject to state supervisory control over the import and end-use of strategic goods without the written permission of the Strategic Goods Commission, and re-export of such goods without special authorisation;

3) the export and transit of weapons of mass destruction; any materials, hardware, software and technology used for the manufacture of weapons of mass destruction, and the export and transit of antipersonnel mines, and services related thereto, regardless of their country of destination;

4) the import, export, and transit of goods used to commit human rights violations and the provision of services related thereto, regardless of their country of destination, unless such goods are displayed as objects of historical value in a museum;

5) the export and transit of other strategic goods, the import of other military goods and services prohibited by international agreements binding for Estonia.

(2) The export and transit of military goods to countries subject to international sanctions is permitted on the basis of an Export Licence or Transit Permission pursuant to the procedure provided for in subsection 3 (3) of the International Sanctions Act, on the condition that the sanction allows for such a possibility.

Grounds for refusal to issue licence

(1) The commission shall refuse to issue a licence, if:

1) the goods are subject to the restrictions specified in the clauses of the Act listed above;

2) there is reason to believe that the goods may be used to commit human rights violations in the country of destination;

3) there is reason to believe that the goods may be used to endanger national, regional, or international security, or for committing terrorist acts;

4) there is reason to believe that, in the country of destination, the goods may be diverted from their original destination, or re-exported under conditions endangering security;

5) the import, export, or transit of the specific goods or services is in conflict with Estonia's international obligations.

23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated?

Currently, Estonia does not produce any weapons or ammunition.

VI. Assistance and conclusion

24. Would your state be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.

Estonia has already been conducting a number of assistance projects for various countries on a bilateral or multilateral basis. The aim of these projects and programmes is to enhance the capabilities of the recipient states' immigration authorities, border guard, police, and judicial system; to accelerate market-economy reforms; and improve their good governance ability.

25. Please identify areas, if any, of any incomplete implementation of the Taliban/Al-Qaida sanctions regime, and where you believe specific assistance or capacity building would improve your ability to implement the above sanctions regime.

26. Please include any additional information you believe pertinent.

Comments:

The various United Nations institutions dealing with the prevention and combating terrorism or its financing could improve their co-ordination of activities, in order to prevent duplication of efforts, and

the primacy of bureaucratic procedures at the expense of the actual activities directed against terrorism. The mechanisms for transmission of appropriate information between the UN Member States and the Organization itself could also be improved.

This is of significance, firstly, in view of the accountability of the various UN committees where many issues are reiterated. Secondly, in view of the similar activities of various international organizations, of which, the UN, as the central international organization, should be, and is, informed. UN officials, who are responsible for collating the various reports, could consider the utilization of the information, which has already been forwarded by Member States, for instance, on a regional basis. Thirdly, it would be justified to have a differentiated approach for those states where active terrorist networks or various forms of support structures for terrorism are known to exist from those states where no such activities have been identified. Although the principle of equality is should normally be adhered to, such a differentiating approach is called for by the practical need to make more effective the application of UN Security Council Resolutions 1373, 1390, etc. in Member States. In addition, the application of these resolutions and other measures should not be hampered by the constant adoption of additional regulations, conditions, and repetitive questions within the framework of the accountability requirements, which can often overburden, or even paralyze the 'respondents' limited administrative and financial resources.